

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE WASHINGTON MUTUAL, INC.
SECURITIES LITIGATION

This Document Relates to: Lead Case No.
C09-664 MJP

No. 2:08-MD-1919 MJP

Lead Case No. C09-664 MJP

**DT-5: DECLARATION OF SAMUEL
B. LUTZ IN SUPPORT OF
DEFENDANT DELOITTE &
TOUCHE LLP'S MOTION TO
DISMISS PLAINTIFFS'
CONSOLIDATED AMENDED
COMPLAINT**

**NOTE FOR MOTION CALENDAR:
March 29, 2010**

ORAL ARGUMENT REQUESTED

1 I, Samuel B. Lutz, declare as follows:

2 1. I am an attorney at Latham & Watkins LLP. I make the following
3 statements based on personal knowledge. I am competent to testify to the matters stated
4 herein.

5 2. I am one of the counsel of record for Deloitte & Touche LLP
6 (“Deloitte”). I make this declaration in support of Deloitte’s Motion to Dismiss Plaintiffs’
7 Consolidated Amended Complaint (“Complaint”).

8 3. Attached hereto as Exhibit 1 is a true and correct copy of the
9 “Comptroller’s Handbook for Allowance for Loan and Lease Losses,” which was issued by
10 the Office of the Comptroller of the Currency. The Court took judicial notice of this
11 document in its May 15, 2009 Order on Defendants’ Motions to Dismiss in the securities class
12 action (Dkt. No. 277).

13 4. Attached hereto as Exhibit 2 is a true and correct copy of Financial
14 Accounting Standards Board Statement of Financial Accounting Standards No. 5,
15 “Accounting for Contingencies,” dated July 1, 1975. The Court took judicial notice of this
16 document in its May 15, 2009 Order on Defendants’ Motions to Dismiss in the securities class
17 action (Dkt. No. 277).

18 5. Attached hereto as Exhibit 3 is a true and correct copy of Financial
19 Accounting Standards Board, Emerging Task Force Topic No. D-80, “Application of FASB 5
20 and 114 to a Loan Portfolio,” dated May 19-20, 1999. The Court took judicial notice of this
21 document in its May 15, 2009 Order on Defendants’ Motions to Dismiss in the securities class
22 action (Dkt. No. 277).

23 6. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from
24 Washington Mutual, Inc.’s Form 10-K/A for the Fiscal Year Ended December 31, 2005,
25 which was filed with the SEC on August 9, 2006. Plaintiffs refer to this document throughout
26 their Complaint. The Court took judicial notice of this document in its May 15, 2009 Order on
27 Defendants’ Motions to Dismiss in the securities class action (Dkt. No. 277).

1 7. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from
2 Washington Mutual, Inc.'s Form 10-K for the Fiscal Year Ended December 31, 2006, which
3 was filed with the SEC on March 1, 2007. Plaintiffs refer to this document throughout their
4 Complaint. The Court took judicial notice of this document in its May 15, 2009 Order on
5 Defendants' Motions to Dismiss in the securities class action (Dkt. No. 277).

6 8. Attached hereto as Exhibit 6 is a true and correct copy of American
7 Institute of Certified Public Accountants Auditing Standard AU 150, "Generally Accepted
8 Auditing Standards," dated December 15, 2001.

9 9. Attached hereto as Exhibit 7 is a true and correct copy of American
10 Institute of Certified Public Accountants Auditing Standard AU 110, "Responsibilities and
11 Function of the Independent Auditor," dated November 1972. The Court took judicial notice
12 of this document in its May 15, 2009 Order on Defendants' Motions to Dismiss in the
13 securities class action (Dkt. No. 277).

14 10. Attached hereto as Exhibit 8 is a true and correct copy of American
15 Institute of Certified Public Accountants Auditing Standard AU 230, "Due Professional Care
16 in the Performance of Work," dated November 1972.

17 11. Attached hereto as Exhibit 9 is a true and correct copy of American
18 Institute of Certified Public Accountants Auditing Standard AU 326, "Audit Evidence," dated
19 August 1980. The Court took judicial notice of this document in its May 15, 2009 Order on
20 Defendants' Motions to Dismiss in the securities class action (Dkt. No. 277).


21 12. Attached hereto as Exhibit 10 is a true and correct copy of American
22 Institute of Certified Public Accountants Auditing Standard AU 316, "Consideration of Fraud
23 in a Financial Statement Audit," dated December 15, 2002.

24 13. Attached hereto as Exhibit 11 is a true and correct copy of excerpts
25 from Washington Mutual, Inc.'s Form 10-K/A for the Fiscal Year Ended December 31, 2007,
26 which was filed with the SEC on May 22, 2008. Plaintiffs refer to this document in their
27 Complaint.
28

1 14. Attached hereto as Exhibit 12 is a true and correct copy of excerpts
2 from Washington Mutual, Inc.'s Form 10-K for the Fiscal Year Ended December 31, 2007,
3 which was filed with the SEC on February 29, 2008. Plaintiffs refer to this document in their
4 Complaint.

5 I declare under penalty of perjury that the foregoing is true and correct to the best of
6 my knowledge.

7 Executed in San Francisco, California on February 16, 2010.

8
9 By 
10 Samuel B. Lutz
11 Latham & Watkins LLP
12 505 Montgomery Street, Suite 2000
13 San Francisco, CA 94111
14 Phone: (415) 391-0600
15 samuel.lutz@lw.com

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the Court's Electronic Mail Notice List.

Dated: February 16, 2010

By: /s/ Ralph H. Palumbo
Ralph H. Palumbo (WSBA No. 04751)